

**REMARKS/ARGUMENTS**

No new matter has been added by any of the above amendments to the claims, and therefore, the Examiner is respectfully requested to enter the amendments.

*Discussion of claim 1.*

In the present Official Action, the Examiner rejected claim 1 under 35 USC §102(b) as being anticipated by U.S. Pat. No. 6,241,747 to Ruff. Applicants respectfully note that, as applicants are sure the Examiner is well aware, for a reference to be a reference under 35 USC §102(b), that reference, by itself, must teach each and every element of the claim. That is not achieved by Ruff with respect to claim 1.

The Examiner stated Ruff discloses a barbed suture 12 having a plurality of barbs 15, 16, projecting from the body, facing a direction resistant to movement, and having a staggered disposition.

Applicants respectfully point out that the Examiner has misinterpreted Ruff. Ruff is absolutely silent vis-à-vis staggered barbs. Barbed suture 12 in Ruff does not have barbs 15, 16 in a staggered disposition, but rather, Ruff has barbs 15, 16 in a **helical** pattern. Specifically, Ruff states at lines 51 - 54 of column 4 that:

A first set of barbs 15 on connector 12 are arranged in a **helical** pattern and face a pointed end 20, and a second set of barbs 16 on connector 12 are arranged in a **helical** pattern and face a pointed end 21. [Emphasis supplied.]

Furthermore, applicants respectfully point out that in response to the first Official Action, applicants deleted "staggered disposition" from independent claim 1.

Accordingly, applicants respectfully submit that claim 1 distinguishes over U.S. Pat. No. 6,241,747 to Ruff, and the Examiner is respectfully requested to withdraw the rejection of claim 1.

*Discussion of claims 2 and 3.*

In the present Official Action, the Examiner rejected claims 2 and 3 under 35 USC §102(b) as being anticipated by U.S. Pat. No. 5,931,855 to Buncke. The Examiner noted Buncke discloses a barbed suture having a staggered disposition at lines 4 – 7 of column 9.

In the above amendment, applicants deleted "staggered disposition" from each of independent claims 2 and 3.

Applicants respectfully note that for a reference to be a reference under 35 USC §102(b), that reference, by itself, must teach each and every element of the claim. That is not achieved by Buncke with respect to either of claim 2 or 3 as now amended.

Accordingly, applicants respectfully submit that claims 2 and 3 distinguish over U.S. Pat. No. 5,931,855 to Buncke, and the Examiner is respectfully requested to withdraw the rejection of claims 2 and 3.

*Discussion of claim 4.*

Additionally in the present Official Action, the Examiner rejected claim 4 under 35 USC §102 (b) as being anticipated by U.S. Pat. No. 5,931,855 to Buncke. The Examiner noted Buncke discloses a barbed suture having a staggered disposition at lines 4 – 7 of column 9.

Applicants respectfully note that in response to the first Official Action, dependent claim 4, which is specific to the barbs having "a staggered disposition", was amended to depend on independent claim 16, which is allowed, instead of on independent claim 1.

In the above amendment, claim 4 has now been amended to be in independent form, and incorporate all of the limits of independent claim 16.

Specifically, all of the various features in clause (II) of independent claim 16, which are now in independent claim 4, are not taught or suggested in U.S. Pat. No. 5,931,855 to Buncke.

Applicants respectfully note that for a reference to be a reference under 35 USC §102(b), that reference, by itself, must teach each and every element of the claim. That is

not achieved by Buncke with respect to claim 4 as previously amended or as now amended.

Thus, applicants respectfully submit that claim 4 distinguishes over U.S. Pat. No. 5,931,855 to Buncke, the Examiner is respectfully requested to withdraw the rejection of claim 4.

*Discussion of claim 5.*

Furthermore in the present Official Action, the Examiner objected to claim 5 as being dependent upon a rejected base claim, and indicated that claim 5 would be allowable if rewritten to be in independent form.

Applicants respectfully note that in response to the first Official Action, dependent claim 5, which is specific to the barbs having a "staggered disposition", was amended to depend on independent claim 16, which is allowed, instead of on independent claim 1.

Regardless, claim 5 has now been amended to be in independent form, and incorporate all of the limits of independent claim 16.

Thus, the Examiner is respectfully requested to withdraw the objection to claim 5.

*Discussion of claims 12 - 15.*

In the present Official Action, the Examiner rejected claims 12 - 15 under 35 USC §102(b) as being anticipated by U.S. Pat. No. 5,931,855 to Buncke. The Examiner noted Buncke discloses a barbed suture having a staggered disposition at lines 4 - 7 of column 9.

Applicants respectfully point out that in response to the first Official Action, applicants deleted "staggered disposition" from independent claim 1, and thus, this phrase is deleted from dependent claims 12 - 15 because each of them depends back to independent claim 1.

Applicants respectfully note that for a reference to be a reference under 35 USC §102(b), that reference, by itself, must teach each and every element of the claim. That is not achieved by Buncke with respect to any of claims 12 - 15 as previously amended.

Accordingly, applicants respectfully submit that claims 12 - 15 already distinguish over U.S. Pat. No. 5,931,855 to Buncke, and the Examiner is respectfully requested to withdraw the rejection of claims 12 - 15.

*Discussion of claims 6 - 11 and 16 - 24.*

Also in the present Official Action, the Examiner noted these claims are allowable.

*Discussion of new claims 25, 26, and 27.*

New independent claim 25, new dependent claim 26 (which depends on independent claim 25), and new dependent claims 27 (which depends on independent claim 25) correspond respectively to original independent claim 1, original dependent claim 2 (which depended on independent claim 1), and original dependent claim 3 (which depended on independent claim 1), except that each of original claims 1, 2, and 3 contains a Markush group and this is directed to:

the barbs having a disposition on the body selected from the group consisting of a staggered disposition, a twist cut multiple spiral disposition, an overlapping disposition, a random disposition, and combinations thereof,

whereas each of new claims 25, 26, and 27 recites the "staggered" embodiment of the Markush group, along with the definition of "staggered" from paragraph [052] of the application as filed, and thus is directed to:

the barbs having a staggered disposition on the body, staggered being that the suture has at least two sets of barbs that are offset with respect to each other, where the first set is aligned longitudinally on the suture and the second set is aligned longitudinally on the suture, and a plane perpendicular to the suture and cutting transversely through the suture and intersecting the base of a barb of the first set will not intersect the base of a barb of the second set.

Applicants respectfully submit that no new matter has been added, and thus, request entry of new claims 25, 26, and 27.

Specifically, applicants respectfully point out that what they mean by "staggered", which is now recited in the new claims 25, 26, and 27, is not taught or suggested by U.S. Pat. No. 6,241,747 to Ruff or by U.S. Pat. No. 5,931,855 to Buncke, either alone or in combination.

Accordingly, new claims 25, 26, and 27 are not anticipated under 35 USC §102(b) by Ruff or by Buncke, and are not rendered obvious under 35 USC §103(a) by the combination of Ruff and Buncke.

Thus, the Examiner is respectfully requested to allow new claims 25, 26, and 27.

### **CONCLUSIONS**

Applicants respectfully submit that in view of the above amendments and the amendments in response to the previous Official Action, rejected claims 1, 2, 3, 4, and 12 – 15 are allowable and the Examiner is respectfully requested to withdraw the rejections under 35 USC §102(b) of claims 1, 2, 3, 4, and 12 - 15. Also, claim 5 has been rewritten to be independent, as per the Examiner's request, and thus claim 5 is allowable, and the Examiner is respectfully requested to withdraw the objection to claim 5. Additionally, the Examiner allowed claims 6 - 11 and 16 – 24. Furthermore, applicants respectfully submit that new claims 25, 26, and 27 are allowable, and the Examiner is respectfully requested to allow these claims.

Hence, applicants respectfully submit that the case is in condition for allowance and early allowance is earnestly solicited. If the Examiner should have any questions of a minor nature after reading the above, the Examiner is respectfully requested to telephone the undersigned in order to attend to any such minor issues and obviate the issuance of another Official Action.

**DEPOSIT ACCOUNT**

Although enclosed is a check in the amount of \$1298.00 (for the \$980.00 fee for the Petition for 3-month extension and the \$264.00 fee for the presentation of three additional independent claims and the \$54.00 fee for the presentation of three additional claims), and thus it is believed that no fee is due, the Commissioner is authorized to charge any deficiencies of payment associated with the Communication, or to credit any overpayment, to **Deposit Account No. 13-4365**.

Date: November 12, 2004

Respectfully submitted,

By: 

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Encl.: Petition for 3-month extension of time

\$1298.00 check (LARGE entity status fee--\$980.00 for Petition for 3-month extension  
and \$264.00 for presentation of three additional independent claims  
@ \$88.00 each and \$54.00 for presentation of three additional claims  
at \$18.00 each)